

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

03/30/2010 CKHLOK 00000006 504627 10587154
01 FC:1453 1620.MN 00

CONTINGENT PETITION TO REVIVE FOR UNINTENTIONAL ABANDONMENT

Sir:

To the extent that the present application is considered to have been abandoned prior to the full 6-month statutory period for reply to the Final Office Action, Applicant hereby petitions the Office under 37 C.F.R. § 1.137(b) to revive the above-identified application for the purpose of copendency.

The Office issued a Final Office Action in this case on March 24, 2009. The shortened statutory period for reply was set to expire 3 months from the mailing date of the Final Office Action, i.e., June 24, 2009. Extensions of time for reply were available under 37 C.F.R. § 1.136(a)—making the maximum period for reply 6 months from the mailing date of the Final Office Action, i.e., September 24, 2009.

On September 24, 2009, Applicant filed a Petition for Extension of Time under 37 C.F.R. § 1.136(a) requesting a 3-month extension along with the requisite fee of \$1,110.00. The Petition properly identified the application number as 10/587,154. A copy of the Petition is attached as Exhibit 1.

The Petition and the fee, however, were filed via the Office's electronic filing system in application number 12/565,788, which is a continuation-in-part of the present application. A copy of the Electronic Acknowledgement Receipt confirming the submission is attached as Exhibit 2.

Adjustment date: 03/30/2010 CKHLOK
12/10/2009 INTEFSW 000011263 10587154
01 FC:1253 -1110.00 OP

The CIP '788 application was filed on September 24, 2009.

To the extent that the present application is considered to have been abandoned prior to the full 6-month statutory period for reply to the Final Office Action due to the misfiling indicated above, Applicant respectfully requests that the Office revive the present application for the purpose of maintaining copendency between the present application and the CIP '788 application.

The original extension-of-time fee has since been refunded to the law firm that filed the extension-of-time petition. Therefore, the extension-of-time fee in the amount of \$1110.00 is being resubmitted by credit card concurrently with the filing of this Contingent Petition.

In case it is necessary, a new Petition for Extension of Time Under 37 C.F.R. § 1.136(a) is also being concurrently filed herewith.

Finally, to the extent the Office deems it necessary in order to grant the relief requested in this paper, Applicant states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 C.F.R. § 1.137(b) was unintentional. Additionally, the Office is hereby authorized to charge the petition fee of \$1,620.00, if required under 37 C.F.R. § 1.17(m), to Deposit Account No. 50-4627.

If the Office has any questions concerning this Contingent Petition or the application in general, the Office is invited to call the undersigned at the telephone number listed below.

Respectfully submitted,

PHAN LAW GROUP PLLC

Date: December 10, 2009

By: Nhat Phan
Nhat D. Phan
Registration No. 39,581

P.O. Box 748
Alexandria, VA 22313-0748
(703) 706-0420

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND					
1 Date of Request: <u>3/27/10</u>		2 Serial/Patent # <u>10/587,154</u>			
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT	
<input type="checkbox"/>	Filing			\$	
<input type="checkbox"/>	Amendment			\$	
<input checked="" type="checkbox"/>	Extension of Time			\$	1,110
<input type="checkbox"/>	Notice of Appeal/Appeal			\$	
<input type="checkbox"/>	Petition			\$	
<input type="checkbox"/>	Issue			\$	
<input type="checkbox"/>	Cert of Correction/Terminal Disc.			\$	
<input type="checkbox"/>	Maintenance			\$	
<input type="checkbox"/>	Assignment			\$	
<input type="checkbox"/>	Other			\$	
		7 TOTAL AMOUNT OF REFUND	\$ 1,110		
8 TO BE REFUNDED BY:					
<input type="checkbox"/>	Overpayment	<input type="checkbox"/>	Treasury Check		
<input type="checkbox"/>	Duplicate Payment	<input checked="" type="checkbox"/>	Credit Deposit A/C #:	9 - 5 0 - 4 6 2 7	
<input checked="" type="checkbox"/>	No Fee Due (Explanation): <i>E.O.T. paid after maximum extendable time period.</i>	<i>Credit Card</i>			
11 REFUND REQUESTED BY:					
TYPED/PRINTED NAME: <u>Kimberly Inabinet</u>			TITLE: <u>Petitions Examiner</u>		
SIGNATURE: <u>Kimberly Inabinet</u>			PHONE: <u>x24618</u>		
OFFICE: <u>Office of Petitions</u>					
***** THIS SPACE RESERVED FOR FINANCE USE ONLY *****					
APPROVED: <u>CKL/K</u>			DATE: <u>3/30/10</u>		

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

Office of Finance
Refund Branch
Crystal Park One, Room 802B